

## MEMORANDUM

**TO** POSTGRADUATE COORDINATORS  
SUPERVISORS OF POSTGRADUATE RESEARCH STUDENTS

**CC** ANNE WITT, ACTING MANAGER RESEARCH BRANCH  
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**FROM** DIANE MCINNES  
GRADUATE ADMINISTRATION AND SCHOLARSHIPS  
OFFICER

**SUBJECT** MEMORANDUM TO SUPERVISORS OF POST GRADUATE RESEARCH  
STUDENTS

**DATE** 21 JUNE 2006                      **REF:**                      RMR

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As a supervisor of higher degree by research students you will be obligated to advise your students regarding rights under the 'Intellectual Property Policy' of the University. The recently revised policy is available on the web at: <https://www.adelaide.edu.au/policies/1263/>. You are requested to familiarise yourself with the sections of the policy regarding students and intellectual property ("IP") and the University's potential obligation and liability to a third party as well as the administrative procedures regarding IP contained in the 'Research Student Handbook'. To assist in alleviating concerns of staff and students regarding IP issues however, Adelaide Research and Innovation Pty Ltd has adapted the University of Queensland's scenarios document to illustrate how the policies and procedures outlined in the new IP policy will operate in practice. The adapted document, which will be available on the Graduate Centre website, is also forwarded for your information.

Students are not employees of the University and in the absence of a contract or agreement the student owns IP developed as a result of his/her project. These results are often however the product of complex interaction between third parties, the supervisor(s), the student and other student(s) as part of a research team

For the protection of the rights of all participants who may be engaged in research the University requires that higher degree students engaged in research with the potential to result in outcomes which are of possible commercial interest, assign to the University their intellectual property rights arising from that research by signing the *Student Project Participation Agreement (SPPA)*. This

ensures that students who sign an SPPA share in any benefit in the same way, as a University staff member.

It is believed that the University, with its available resources, expertise and appropriate mechanisms in place for the commercialisation of intellectual property (through Adelaide Research & Innovation Pty Ltd), will be in a better position to protect and service the students' interests.

In all negotiations with third parties, the University endeavours to preserve the student's ownership of copyright within the thesis although the University or another party may own IP within the project.

This memorandum seeks to set out some guidelines for you to follow when you are dealing with postgraduate students and intellectual property issues.

### **Student Project Participation Agreement (SPPA) and Joint Ownership Agreements**

1. Postgraduate Coordinators should ensure that:
  - on enrolment both supervisors and the student have discussed Intellectual Property issues, the potential involvement of any person, institution, private company, agency (government or quasi/government) or centre (e.g. CRC) and the necessity for the student to sign the SPPA.
  - before a student is to undertake a research project that involves any possibility of producing an outcome that has commercial potential or which builds upon pre-existing IP then the student must be requested to sign a Student Project Participation Agreement ("SPPA") in accordance with the IP policy).
  - if the student refuses to sign the SPPA, then the student is to be provided with an alternative research project known not to produce any IP that has a commercial potential.
  - For the assistance of supervisors a copy of the document entitled 'Basic principles that University staff should take into account in the following scenario's is attached. Both the SPPA and this document when finalised will be available on the web at: <http://www.adelaide.edu.au/graduatecentre/forms/>.
  
2. Specific requirements or preferences of outside funding bodies or employers may also need to be addressed contractually and may require the student to assign intellectual property to the University.
  
3. If a student is to undertake a research project that involves a third party partner (e.g. a CRC, DSTO, CSIRO, IMVS, another University, industry party or a hospital etc) in any capacity the student cannot embark on any research project *until and unless* the student has signed an SPPA. This is because the student will own his/her IP resulting from the research project unless the student has assigned such IP to the University. The University, however, may have agreed to obligations with the third party partner relating to intellectual property which if not complied with can result in breaches by the University of its contractual obligations with a consequence of liability to the third party partner if the student has not signed an SPPA.
  
4. Certain third party partners such as CSIRO/IMVS/MedVet/CRC's have their own student agreements. The University however, takes the view that as the student is enrolled in the University of Adelaide the student in the first instance is to sign an agreement (i.e. an SPPA) with the University. The University will then commence negotiation with the third party partner. In some instances the University, the student and the third party may develop and sign a Joint Ownership

Agreement addressing pertinent IP issues. A sample of the Joint Ownership agreement is available on the web at: [http://www.adelaide.edu.au/graduatecentre/forms/ip\\_joa.pdf](http://www.adelaide.edu.au/graduatecentre/forms/ip_joa.pdf)

5. There may be the odd circumstance where a student is not requested to execute an SPPA because it is not imagined that any IP will be created but that by serendipity there is a discovery and the IP needs to be protected and not placed in the public domain. In these circumstances the supervisor should discuss intellectual property issues with the student and negotiate the signing of an SPPA. Where clarification is required the supervisor should contact Adelaide Research & Innovation Pty Ltd prior to signing the SPPA.

6. Where an SPPA is required, the Graduate Centre forwards a request to the student to complete three copies of this agreement. A copy of this letter is forwarded to all supervisors as well as the Postgraduate Coordinator. The Principal supervisor is required to sign the SPPA before it is submitted to the Graduate Centre. After the execution of the SPPA, one is retained for the student file, one copy is forwarded to the student and one copy is forwarded to the Principal supervisor. A photocopy is also sent to the School/Discipline for record purposes. Note that students and supervisors should understand that a sponsor (funding body) might have specific requirements with respect to the presenting and the publishing of data/results of funded research. Clause 7 of the SPPA states that students must obtain written clearance from the University to present or publish confidential information or confidential material. Students and supervisors should contact Adelaide Research & Innovation Research Branch regarding the clearance.

7. Any agreement with a third party which relates to Adelaide University intellectual property including funding, development or commercialisation must be negotiated and processed through Adelaide Research & Innovation Pty Ltd. Agreements with an external agency must include provisions regarding the legal rights to intellectual property which is created under the agreement. If and when any such agreement is finalised, a copy should be forwarded to the Graduate Centre to be attached to the student file.

8. All supervisors and Postgraduate Coordinators should discuss the implications and ramifications of any proposed agreement with legal advisers at Adelaide Research & Innovation Pty Ltd before an agreement is signed. Students may wish to obtain independent legal advice and may consult the services offering free legal advice listed in The National Pro Bono Resource Centre website at: <http://www.nationalprobono.org.au/>

### **Embargoes on a Student's thesis**

Due to the importance of maintaining the confidential information of the University and/or a third party partner the following procedures have been implemented: -

1. If an SPPA has been executed an automatic embargo of twelve months from the date of submission is placed on the publication of the material within the thesis. The thesis will be examined but examiners will be requested to treat the thesis as confidential and not to discuss it with, or make it available to, any other party. After examination the thesis is deposited in a restricted access section of the Barr Smith library.

2. At the end of the embargo period, the Research Education and Development Committee will determine, on advice from Adelaide Research & Innovation Pty Ltd, whether the embargo should be continued or lifted. Supervisors will be approached to provide reasons for supporting the lifting of the embargo to the Graduate Centre. If a third party partner is involved in the student's project however, the supervisor will need to obtain from the third party partner's authorised representative a

signed form of authority prior to lifting of the embargo on the student's thesis. A copy of the Third Party Organisation Lift Embargo Form is attached to this Memorandum. When the embargo is lifted the Barr Smith library will be advised that access to the thesis is no longer restricted

### **Staff Contacts**

For supervisors requiring advice in relation to the Intellectual Property Policy:  
ARI Pty Ltd - Rosanne Rositano, x33484, Georgia Sherry, x36099

For supervisors requiring advice in relation to grants:

Lynette Kelly, x33534

Tony Hansen (ARC), x35175

Vada Osborn (NHMRC), x35051

For supervisors requiring advice about Student Project Participation Agreements (SPPA)

Diane McInnes x35697

Students should seek independent free legal advice listed in the National Pro Bono Resource Centre website at: <http://www.nationalprobono.org.au/>

Your assistance with promulgating this information to research students and familiarising yourself with the revised Intellectual Policy would be appreciated.

THIRD PARTY ORGANISATION LIFT EMPBARGO FORM ("*Lift Embargo Form*")

I [FULL NAME] [TITLE] represent [NAME OF THIRD PARTY] and I have authority to speak for and on behalf of [NAME OF THIRD PARTY] and the power to bind [NAME OF THIRD PARTY] in relation to this *Lift Embargo Form*.

I request the University of Adelaide to lift the embargo on the thesis entitled [NAME OF THESIS] ("*Thesis*") submitted by [NAME OF STUDENT]. I accept and agree there is nothing confidential in the Thesis that is proprietary to [NAME OF THIRD PARTY] and which is required to be protected. [NAME OF THIRD PARTY] accepts and agrees that the Thesis will be published in the public domain.

Signed  
[FULL NAME] [TITLE] for and on behalf of [NAME OF THIRD PARTY]

Dated